

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Aquatic Resources
Honolulu, Hawaii 96813

November 17, 2006

Board of Land
and Natural Resources
Honolulu, Hawaii

REQUEST FOR FINAL APPROVAL TO ESTABLISH NEW HAWAII ADMINISTRATIVE
RULES, CHAPTER 13-65, WAILUA RESERVOIR PUBLIC FISHING AREA, KAUAI.

Submitted for your consideration and approval is the final draft of the proposed new Chapter 13-65, Wailua Reservoir Public Fishing Area, Kauai. The proposed new chapter would establish the Wailua reservoir as a public fishing area.

A public hearing on the proposed rule amendments was held at the Kapaa High School library, Kapaa, Hawaii on October 12, 2006. The public hearing was brief because only one person attended the hearing, and the attendee did not wish to testify. The attendee however did indicate support for the proposal. One written testimony was submitted and supports the establishment of the public fishing area. This proposal has the support of the Kauai Aquatic Life and Wildlife Advisory Committee. For clarification, the Department recommends the inclusion of the definitions for "Department" and "Trotlines."

RECOMMENDATION:

"That the Board approve the proposed new Hawaii Administrative Rules Chapter 13-65, Wailua Reservoir Public Fishing Area, Kauai."

Respectfully submitted,



DAN POLHEMUS
Admininstrator

APPROVED FOR SUBMITTAL:



PETER T. YOUNG
Chairperson

Attachment: Chapter 13-65 (Ramseyer Draft 11/2//06)

ITEM F-1

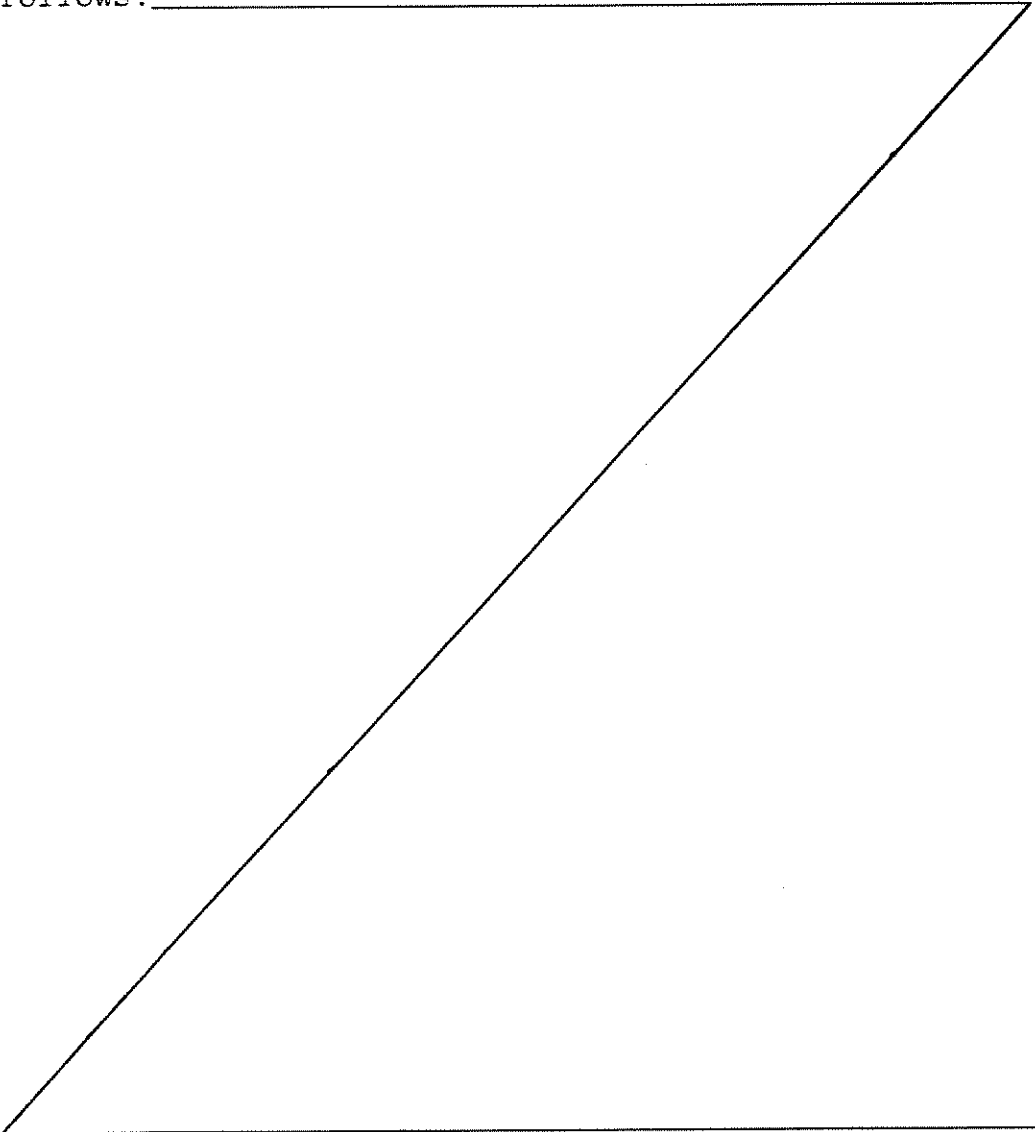
RAMSEYER DRAFT
(11/02/06)

DEPARTMENT OF LAND AND NATURAL RESOURCES

Adoption of Chapter 13-65
Hawaii Administrative Rules

(Date)

1. Chapter 65 of Title 13, Hawaii
Administrative Rules, entitled, "Wailua Reservoir Public
Fishing Area, Kauai," is adopted to read as
follows: _____



"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4

FISHERIES

PART III FRESHWATER FISHERIES MANAGEMENT AREAS

CHAPTER 65

WAILUA RESERVOIR PUBLIC FISHING AREA, KAUAI

§13-65-1	Intent and Purpose
§13-65-2	Definitions
§13-65-3	Prohibited activities
§13-65-4	Permitted activities
§13-65-5	Daily bag limits
§13-65-6	Penalty
§13-65-7	Severability

§13-65-1 Intent and purpose. For the purposes of this chapter, the Wailua Reservoir public fishing area, Kauai, shall be managed primarily for the enjoyment and pursuit of recreational fishing by Kauai's residents and visitors. The department reserves the right to temporarily adjust the fishing seasons, bag limits and minimum sizes or any other provision of this chapter in order to improve the fish stocks and a quality fishing experience.

[Eff _____] (Auth: HRS §188-53) (Imp: HRS §188-53)

§13-65-2 Definitions. As used in this chapter unless otherwise provided:

"Department" means the department of land and natural resources.

"Fish, fish for, fishing" means to take, catch, capture, confine, or harvest, or to attempt to take, catch, capture, confine, or harvest, aquatic life. The use of any gear, equipment, tool, or any means to take, capture, confine, or harvest, aquatic life by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life may be taken, caught, captured, confined, or harvested, shall be construed as fishing.

"Freshwater game fishing license" means the license issued by the department pursuant to section 13-74-10.

"Daily bag limit" means the maximum number of fish allowed as specified by species, to be caught, taken, or kept per fisher per day.

"Bluegill" means any fish known as *Lepomis macrochirus* or any recognized synonym.

"Largemouth bass" means any fish known as *Micropterus salmoides* or any recognized synonym.

"Motorized vessel" means any boat, kayak, canoe, raft, or any other watercraft that is propelled by using engines or motors, that use fuel or battery.

"Smallmouth bass" means any fish known as *Micropterus dolomieu* or any recognized synonym.

"Trotlines" means a type of fishing gear consisting of a main line with branch lines with baited hooks attached. The main line may be weighted or anchored on one end and the other end fixed to an object on the shore. The main line may also have floats to adjust the height of the lines in the water column.

"Tucunare" means any fish known as *Cichla ocellaris* or any recognized synonym.

"Wailua Reservoir public fishing area" means that body of water, 60 or so surface acres located within the Wailua district on Kauai, and is described in "Map of Wailua Reservoir Public Fishing Area, Kauai, 11/04/05," appended at the end of this chapter and incorporated by reference. [Eff]
(Auth: HRS §188-53) (Imp: HRS §188-53)

§13-65-3 Prohibited activities. It is unlawful for any person to engage in the following activities within the Wailua reservoir public fishing area:

(1) Fish for, catch, take, possess or remove from the reservoir, any aquatic life, or possess more than the daily bag limit except as provided in section 13-65-4;

(2) Possess any spears, chemicals, trotlines, nets other than provided for in section 13-65-4, or other illegal fishing gear;

(3) Snag any fish species described in this chapter;

(4) Possess or use any live animal or plant as bait in the reservoir;

(5) Enter onto or fish from any reservoir-associated irrigation infrastructure, including any catwalks, valve towers, or ditches of the reservoir;

(6) Launch or use any vessel, watercraft, boat, kayak, canoe, inflatable craft or other similar floatable object, motorized, or windpowered, on the reservoir;

(7) Swim, bathe, or conduct any activity in the reservoir other than fishing;

(8) Fish for, or attempt to catch, take, possess, or remove any aquatic life, or enter into any portion of the reservoir that is designated a wildlife or waterbird sanctuary; and

(9) Contaminate or pollute the reservoir, ditch, or stream. [Eff] (Auth: HRS §188-53)
(Imp: HRS §188-53)

§13-65-4 Permitted activities. (a) The Department may issue permits to engage in activities prohibited by this chapter, as provided in section 187A-6, HRS, or other law.

(b) A person may fish for, catch, take, possess, or remove any aquatic life from the Wailua reservoir public fishing area, subject to the following conditions:

- (1) Shall have a valid freshwater game fishing license as referenced by section 13-74-10 and HRS section 188-50;
 - (2) Shall use only one pole and line, or one line with one lure or one baited hook attached to one line;
 - (3) Shall fish for, take, catch, possess, or remove only a total aggregate daily bag limit of three fish, subject to section 13-65-5 and HRS Section 188-50(d);
 - (4) Must allow the inspection of any bag or container of any kind to carry aquatic life, or any vehicle or any conveyance used to transport aquatic life;
 - (5) Use a dip net not more than two feet along the longest axis, excluding the handle, to land hooked fish; and
 - (6) Fish only during the day (no night fishing).
- [Eff _____] (Auth: HRS §188-53) (Imp: HRS §188-53)

§13-65-5 Daily bag limits. The total aggregate daily bag limit shall be three fish per fisher per day, provided that this total shall consist of :

- (1) No more than two bluegill, and each bluegill shall not be less than seven inches in total length;
- (2) No more than two smallmouth bass, and each bass shall not be less than nine inches in total length;
- (3) No more than two largemouth bass and each bass shall not be less than nine inches or more than fourteen inches in total length; and
- (4) No more than two tucunare and each tucunare shall not be less than twelve inches or more than fifteen inches in total length. [Eff]
- (Auth: HRS §188-50) (Imp: HRS §188-50)

§13-65-6 Penalty. Any person violating the provisions of this chapter shall be guilty of a petty

misdemeanor, be subject to administrative penalties,
and be punished as provided by law. [Eff
](Auth: HRS §§188-53, 188-70, 187A-12.5)
(Imp: HRS §§188-70, 187A-12.5)

§13-65-7 Severability. If any provisions of this
chapter, or the application thereof to any person or
circumstance is held invalid, the invalidity does not
affect other provisions or applications of the chapter
which can be given effect without the invalid
provision or application, and to this end the
provisions of this chapter are severable."
[Eff](Auth: HRS §§1-23, 188-53) (Imp:
HRS §§1-23, 188-53)

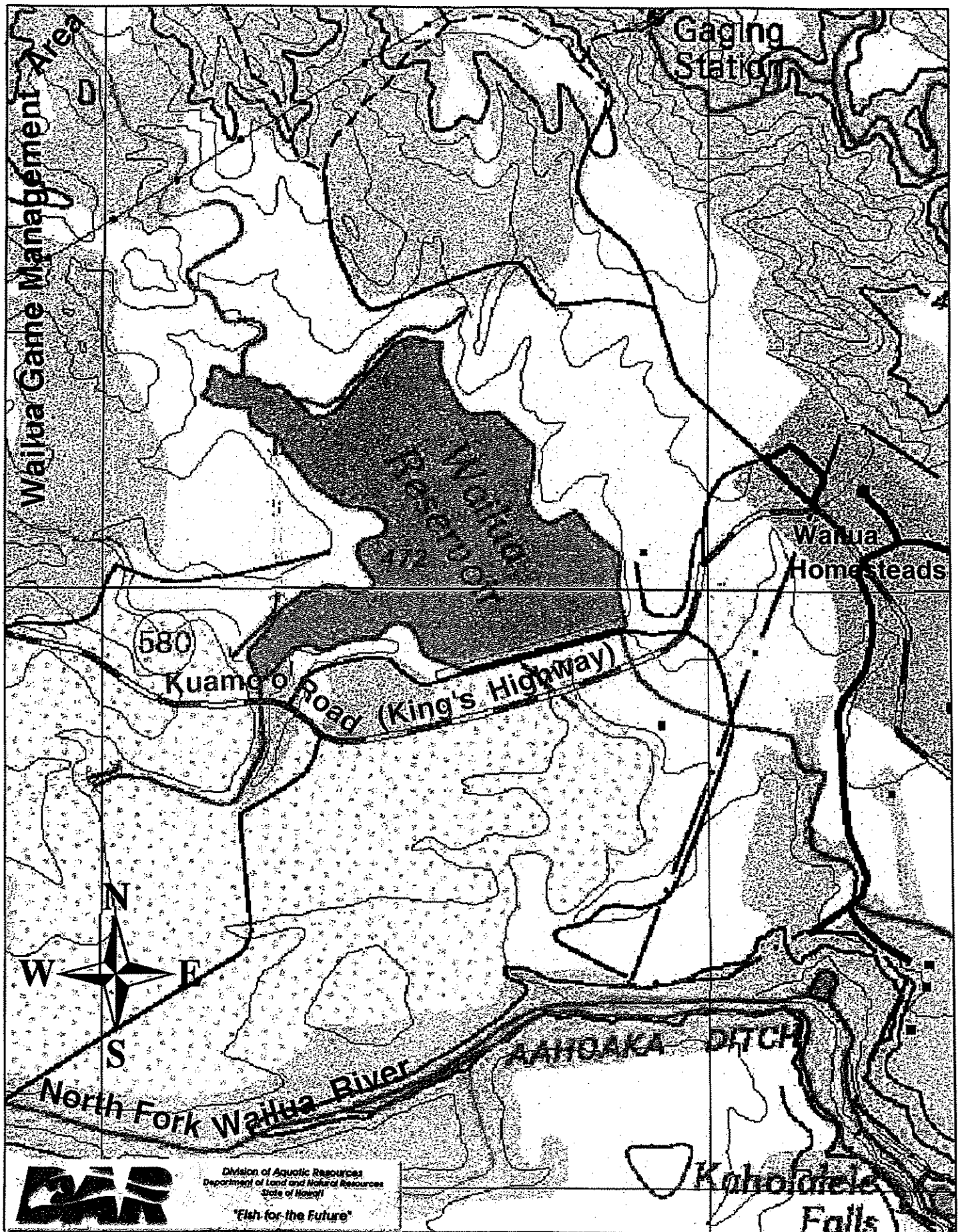
2. The adoption of chapter 13-65, Hawaii
Administrative Rules, shall take effect ten days
after filing with the Office of the Lieutenant
Governor.

I certify that the foregoing are copies of
the rules, drafted in Ramseyer format pursuant to
the requirements of section 91-4.1, Hawaii
Revised Statutes, which were adopted on
_____, and filed with the Office of
the Lieutenant Governor.

PETER T. YOUNG, Chairperson
Board of Land and Natural Resources

APPROVED AS TO FORM:

Deputy Attorney General



Map of Wailua Reservoir Public Fishing Area, Kauai, 11/04/05.